



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/517,203 | 03/02/2000 | Yoshizou Honda | 10830-007001 | 4797 |

26211 7590 03/25/2004

FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK, NY 10111

EXAMINER

SALTARELLI, DOMINIC D

ART UNIT PAPER NUMBER

2611

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,203

Applicant(s)

HONDA, YOSHIZOU

Examiner

Dominic D Saltarelli

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2 and 5 objected to because of the following informalities:

Claim 2, line 29 reads "start end time" and should read --start point time--.

Claim 5, line 27 reads "start end time" and should read --start point time--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The current invention is a means installed in a client side terminal which measures the user perceived response time of a request for moving image data, wherein said response time is reported to an evaluation means in the moving image server for evaluating the satisfaction degree of a user at the response time.

The disclosure fails to enable one of ordinary skill in the art how to make or use said evaluation means for the purpose of evaluating the satisfaction degree of a user.

The limitation "Wherein said moving image response time evaluation unit ...evaluates a satisfaction degree of a user at the response time" (claim 1, lines 29-32 and claim 4, lines 23-24) is not enabling, as there are no means or criteria set forth in the disclosure as to how the moving image response time evaluation unit performs the evaluation.

Claims 2, 3, 5, and 6 are rejected as being dependent upon rejected independent claims 1 and 4.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick, Jr. et al. (6,006,260) [Barrick] in view of McCue (6,076,104) and Turek et al. (6,021,439) [Turek].

Regarding claim 1, Barrick discloses an image communication evaluation system (col. 2, lines 1-5) comprising:

An image response time measurement unit (fig. 1C, browser agent 106, col. 2, lines 18-35) installed (col. 4, lines 40-51) in a client communication terminal (fig. 1C, user machine 102) for transmitting an image request (request for web page, col. 8, lines 27-36) to an image server communication terminal (fig.

1C, web server 104) connected to the client communication terminal (102) via a network (Abstract, lines 1-3, col. 10, lines 56-60) and receiving (col. 8, lines 27-30) and displaying (col. 8, lines 23-26) an image [web page] transmitted from the image server communication terminal (104) in response to the image request, said image response time measurement unit (106) for measuring response time between the image request and image display state change [loading of web page] (col. 8, lines 27-36 and col. 10, lines 37-45); and

An image response time evaluation unit (fig. 1C, relay server 110, col. 10, lines 46-55) for receiving the response time (col. 10, line 48) transmitted from said image response time measurement unit (106) through the network and evaluating the response time (col. 10, lines 51-55) in the image communication between the image server communication terminal (104) and the client communication terminal (102), characterized in that

Said image response time measurement unit (106) comprises:

Start point time measurement means (start timer, col. 10, lines 37-40) for measuring time at which the client communication terminal accepts the image request as start point time (col. 7, lines 51-52);

End point time measurement means (stop timer, col. 10, lines 41-44) for measuring time at which an image display state is changed [when web page is loaded] in accordance with the image request as end point time (col. 10, lines 41-44); and

Response time calculation means (106) for calculating the time between the start point time and the end point time as the response time (col. 7, lines 51-57),

Wherein said image response time evaluation unit (110) receives the response time transmitted from said image response time measurement unit (106) (col. 10, lines 46-49).

Barrick fails to disclose the images are moving images and evaluating a satisfaction degree of a user at the response time.

In an analogous art, McCue teaches incorporating moving images into web pages (col. 6, lines 8-21), for the advantage of increasing the functionality of the web page by removing the limitation of displaying only still, frame by frame video images.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system and method disclosed by Barrick to include moving image data, as taught by McCue, for the advantage of increasing the functionality of the web page by removing the limitation of displaying only still, frame by frame video images.

Barrick and McCue fail to disclose evaluating a satisfaction degree of a user at the response time.

In an analogous art, Turek teaches monitoring the quality of service (user satisfaction) a user experiences (col. 1, lines 65-67) by evaluating the response time a user experiences (col. 4, lines 46-54), providing information to service

providers which allows them to improve their service (col. 1 line 65 – col. 2 line 5).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system and method of Barrick and McCue to include evaluating a satisfaction degree of a user at the response time, as taught by Turek, for the advantage of providing web site service providers information which allows them to improve their service.

Allowable Subject Matter

6. Claims 2, 3, 5, and 6 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maccabee et al. (6,108,7800), who teaches the client side measurement of user perceived response time in the use of computer applications over a network.

Forman et al. (6,178,449), who teaches the client side measurement of user perceived response time for transactions between a client and servers over a network.

Aaker et al. (5,930,252) who teaches client side measurement of the response time of a server.

Chen et al. (5,812,780) who teaches client side measurement of user perceived response times for tasks performed by a server.

Fujiyama (5,333,137) who teaches an error detection system which alerts other components that currently stored data is invalid.

Gee (6,178,395) who teaches adjusting the time window of a process according to the configuration of the computer running the process.

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D Saltarelli whose telephone number is (703) 305-8660. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli
Patent Examiner
Art Unit 2611

DS


CHRIS GRANT
PRIMARY EXAMINER